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6 Attorneys for Defendants

MANN BRACKEN, LLC; DOUG MANN; EDWARD REILLY

8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 SAN FRANCISCO DIVISION

11
12 ZENAIDA E. QUICHO, individually and CASE NO. C 07 3478 BZ
on behalf of all others similarly situated,

13 Plaintiff,

14 v.

15 MANN BRACKEN, LLC; DOUG
16 MANN; EDWARD REILLY,

17 Defendants.

**MANN BRACKEN, LLC, DOUG
MANN AND EDWARD REILLY'S
ANSWER TO PLAINTIFF'S
COMPLAINT AND DEMAND FOR
JURY TRIAL**

18 _____/
19 Defendants MANN BRACKEN, LLC, DOUG MANN, and EDWARD
20 REILLY (collectively, "Defendants"), for themselves and for no other defendants,
21 answer Plaintiff's Complaint ("Complaint") as follows:

22 1. Answering Paragraph 1 of the Complaint, Defendants admit that the
23 basis of Plaintiff's Complaint are allegations that Defendants violated the Fair Debt
24 Collection Practices Act ("FDCPA") and the Rosenthal Fair Debt Collection Practices
25 Act ("RFDCPA"). Defendants further deny that they engaged in any unlawful or
26 deceptive practices and that Defendants violated any statute.

27 2. Answering Paragraph 2 of the Complaint, Defendants state that the
28 FDCPA speaks for itself.

1 3. Answering Paragraph 3 of the Complaint, Defendants state that they lack
2 sufficient information and belief in which to either admit or deny the allegations and
3 on that basis deny each and every allegation therein.

4 4. Answering Paragraph 4 of the Complaint, Defendants state that they lack
5 sufficient information and belief in which to either admit or deny the allegations and
6 on that basis deny each and every allegation therein.

7 5. Answering Paragraph 5 of the Complaint, Defendants admit each and
8 every allegation therein.

9 6. Answering Paragraph 6 of the Complaint, Defendants deny that Doug
10 Mann establishes the collection strategy of Mann Bracken, LLC. Defendants admit
11 the other allegations.

12 7. Answering Paragraph 7 of the Complaint, Defendants deny each and
13 every allegation therein.

14 8. Answering Paragraph 8 of the Complaint, Defendants deny that Edward
15 Reilly establishes the collection strategy of Mann Bracken, LLC. Defendants admit
16 the other allegations.

17 9. Answering Paragraph 9 of the Complaint, Defendants state that they lack
18 sufficient information and belief in which to either admit or deny the allegations and
19 on that basis deny each and every allegation therein.

20 10. Answering Paragraph 10 of the Complaint, Defendants deny that Doug
21 Mann and Edward Reilly direct and control the collection strategy of Mann Bracken,
22 LLC.

23 11. Answering Paragraph 11 of the Complaint, Defendants state that they
24 lack sufficient information and belief in which to either admit or deny the allegations
25 and on that basis deny each and every allegation therein.

26 12. Answering Paragraph 12 of the Complaint, Defendants admit that is
27 what the second paragraph says. As to the other allegations, Defendants deny each
28 and every allegation therein.

1 13. Answering Paragraph 13 of the Complaint, Defendants deny each and
2 every allegation therein.

3 14. Answering Paragraph 14 of the Complaint, Defendants admit that is
4 what the representation says. As to the other allegations, Defendants deny each and
5 every allegation therein.

6 15. Answering Paragraph 15 of the Complaint, Defendants deny each and
7 every allegation therein.

8 16. Answering Paragraph 16 of the Complaint, Defendants deny each and
9 every allegation therein.

10 17. Answering Paragraph 17 of the Complaint, Defendants state that they
11 lack sufficient information and belief in which to either admit or deny the allegations
12 and on that basis deny each and every allegation therein.

13 18. Answering Paragraph 18 of the Complaint, Defendants deny each and
14 every allegation therein.

15 19. Answering Paragraph 19 of the Complaint, Defendants deny each and
16 every allegation therein.

17 20. Answering Paragraph 20 of the Complaint, Defendants deny each and
18 every allegation therein.

19 21. Answering Paragraph 21 of the Complaint, Defendants deny each and
20 every allegation therein.

21 22. Answering Paragraph 22 of the Complaint, Defendants state that they
22 lack sufficient information and belief in which to either admit or deny the allegations
23 and on that basis deny each and every allegation therein.

24 23. Answering Paragraph 23 of the Complaint, Defendants deny each and
25 every allegation therein.

26 24. Answering Paragraph 24 of the Complaint, Defendants deny each and
27 every allegation therein.

28 25. Answering Paragraph 25 of the Complaint, Defendants state that they

1 lack sufficient information and belief in which to either admit or deny the allegations
2 and on that basis deny each and every allegation therein.

3 26. Answering Paragraph 26 of the Complaint, Defendants state that they
4 lack sufficient information and belief in which to either admit or deny the allegations
5 and on that basis deny each and every allegation therein.

6 27. Answering Paragraph 27 of the Complaint, Defendants state that they
7 lack sufficient information and belief in which to either admit or deny the allegations
8 and on that basis deny each and every allegation therein.

9 28. Answering Paragraph 28 of the Complaint, Defendants state that they
10 lack sufficient information and belief in which to either admit or deny the allegations
11 and on that basis deny each and every allegation therein.

12 29. Answering Paragraph 29 of the Complaint, Defendants state that they
13 lack sufficient information and belief in which to either admit or deny the allegations
14 and on that basis deny each and every allegation therein.

15 30. Answering Paragraph 30 of the Complaint, Defendants state that they
16 lack sufficient information and belief in which to either admit or deny the allegations
17 and on that basis deny each and every allegation therein.

18 31. Answering Paragraph 31 of the Complaint, Defendants state that they
19 lack sufficient information and belief in which to either admit or deny the allegations
20 and on that basis deny each and every allegation therein.

21 32. Answering Paragraph 32 of the Complaint, Defendants state that they
22 lack sufficient information and belief in which to either admit or deny the allegations
23 and on that basis deny each and every allegation therein.

24 33. Answering Paragraph 33 of the Complaint, Defendants state that they
25 lack sufficient information and belief in which to either admit or deny the allegations
26 and on that basis deny each and every allegation therein.

27 34. Answering Paragraph 34 of the Complaint, Defendants state that they
28 lack sufficient information and belief in which to either admit or deny the allegations

1 and on that basis deny each and every allegation therein.

2 35. Answering Paragraph 35 of the Complaint, Defendants deny each and
3 every allegation therein.

4 **FIRST AFFIRMATIVE DEFENSE**

5 1. As a separate, affirmative defense, Defendants alleges that the
6 Complaint, and each and every purported cause of action contained therein, fails to
7 state facts sufficient to constitute a cause of action.

8 **SECOND AFFIRMATIVE DEFENSE**

9 2. As a separate, affirmative defense, Defendants alleges that the alleged
10 actions of Defendants were proper and did not violate any provisions of any Federal
11 or State statute.

12 **THIRD AFFIRMATIVE DEFENSE**

13 3. As a separate, affirmative defense, Defendants alleges that at all times
14 mentioned in the Complaint, Defendants acted lawfully and within their legal rights,
15 with a good faith belief in the exercise of those rights, and in the furtherance of a
16 legitimate business purpose. Further, Defendants acted in good faith in the honest
17 belief that the acts, conduct and communications, if any, of the Defendants were
18 justified under the circumstances based on information reasonably available to
19 Defendants.

20 **FOURTH AFFIRMATIVE DEFENSE**

21 4. As a separate, affirmative defense, Defendants alleges that the alleged
22 actions of Defendants was not accompanied by actual malice, intent or ill will.

23 **FIFTH AFFIRMATIVE DEFENSE**

24 5. As a separate, affirmative defense, Defendants alleges that Defendants'
25 conduct, communications and actions, if any, were privileged.

26 **SIXTH AFFIRMATIVE DEFENSE**

27 6. As a separate, affirmative defense, assuming arguendo that this
28 Defendants violated a statute alleged in the complaint, which presupposition the

Defendants deny, such violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

SEVENTH AFFIRMATIVE DEFENSE

7. As a separate, affirmative defense, Defendants allege that Plaintiff is barred from any recovery against Defendants by the doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE

8. As a separate, affirmative defense, Defendants alleges that their conduct, communications and actions, if any, were privileged pursuant to Civil Code §1785.32.

NINTH AFFIRMATIVE DEFENSE

9. As a separate, affirmative defense, Defendants alleges that they at all times alleged in the Complaint, maintained reasonable procedures created to prevent any type of intentional violations of the FDCPA or CA FDCPA.

TENTH AFFIRMATIVE DEFENSE

10. As a separate, affirmative defense, Defendants allege that if Plaintiff was damaged in any sum or sums alleged, which Defendants deny, then Plaintiff's damages are limited by 15 U.S.C. §1692(k)(a)(1), §1692(k)(a)(2)(A), §1692(k)(a)(3) and 15 U.S.C. § 1692(k)(b)(1).

ELEVENTH AFFIRMATIVE DEFENSE

11. As a separate, affirmative defense, Defendants allege that Defendants' conduct, communications and actions, if any, were privileged pursuant to 15 U.S.C. §1692(k)(c).

TWELFTH AFFIRMATIVE DEFENSE

12. As a separate, affirmative defense, Defendants alleges that the alleged actions of Defendants were proper and did not violate any provisions of Cal. Civ. Code § 1788, et seq.

THIRTEENTH AFFIRMATIVE DEFENSE

13. As a separate, affirmative defense, Defendants alleges that their actions were privileged pursuant to Federal and State Common Law.

FOURTEENTH AFFIRMATIVE DEFENSE

14. As a separate, affirmative defense, Defendants allege that if Plaintiff was damaged in any sum or sums alleged, which Defendants deny, Plaintiff failed to mitigate damages.

FIFTEENTH AFFIRMATIVE DEFENSE

15. As a separate, affirmative defense, Defendants allege that if Plaintiff was damaged in any sum or sums alleged, which Defendants deny, Defendants' alleged acts or omissions were not a proximate cause of said damages.

SIXTEENTH AFFIRMATIVE DEFENSE

16. As a separate, affirmative defense, Defendants allege that Plaintiff lacks standing.

WHEREFORE, these answering Defendants pray:

1. For a judgment in favor of Defendants, and against Plaintiff, and that Plaintiff take nothing by reason of said Complaint;

2. That these answering Defendants be awarded cost of suit herein and such other further relief as the Court deems just.


DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Defendants demand trial by jury.

DATED: October 22, 2007

LEWIS BRISBOIS BISGAARD & SMITH LLP

By


Stephen H. Turner
Alisha M. Lee
Attorneys for Defendants
MANN BRACKEN, LLC; DOUG MANN;
EDWARD REILLY

CERTIFICATE OF SERVICE

Zenaida E. Quicho vs. Mann Bracken, LLC, et al.
U.S.D.C. Case No. CASE NO. C 07 3478 BZ

I certify that on the 22nd day of October, 2007, I electronically transmitted the foregoing document **MANN BRACKEN, LLC, DOUG MANN AND EDWARD REILLY'S ANSWER TO PLAINTIFF'S COMPLAINT** to the Clerk's office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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